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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,829	04/03/2001	Christian Prehofer	P00,2004	4617

7590 03/16/2006  
Brett C. Martin  
1650 Tysons Boulevard  
McLean, VA 22102

EXAMINER
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SHAH, CHIRAG G

ART UNIT	PAPER NUMBER
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2664

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/744,829

Applicant(s)

PREHOFER, CHRISTIAN

Examiner

Chirag G. Shah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-27 is/are pending in the application.
- 4a) Of the above claim(s) 16, 18 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-24, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 13, 14, 17, 19 and 25 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/30/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

1. Claim 17 objected to because of the following informalities: Claim 17 depends from a canceled claim 16. Appropriate correction is required.
2. Claims 13 and 21, lines 5 before, the word "destination", "on" should be changed to "one".
3. Claim 15, lines 5 before, the word "bit", "such" should be changed to "the".

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-14, 17, 19 and 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Riggan et al., hereinafter, Riggan (U.S. Patent No. 6,490,252) in view of Farris et al., hereinafter, Farris (U.S. Patent No. 6,574,216).

Regarding claim 13, Riggan discloses in **fig. 2 and 3A** of a method for re-routing data packets of a packet-switching network [**ATM network 305, see fig. 3A**] onto at least one alternate network [**Alternate Network 312, see fig. 3A and col. 4, lines 5-34**] that assures a quality requested by a network user, the packet-switching network [**ATM network 305, see fig. 3A**] and the at least one alternate network [**Alternate Network 312, see fig. 3A**] form

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subnetworks of a network **[network/system architecture 200, see fig. 2]** over which data packets can be transmitted, including at least one source node **[source node (not shown) transmits packet information to access node 300a, see fig. 3 and col. 4, lines 35-55]** and at least one destination node **[node 300b, see fig. 3]** that are each respectively one of either directly or indirectly connected to an access node **[access node 300a, see fig. 2 and 3]** via at least one intermediate node **[ATM network 305 include nodes, see fig. 2]**, the access node **[node 300a, see fig. 3 and col. 4, lines 45-65]** setting up a connection both to the packet-switching network **[ATM network 305, see fig. 3A]** and to one of the at least one alternate network **[Alternate Network 312, see fig. 3A]**, the method comprising:

identifying by a respective bit pattern **[traffic type such as voice, video or data, see col. 4, lines 46-51, note the ToS (type of service) field generally includes appropriate bit pattern for each type of traffic contained in the packet]** known to the access node the data packets to be routed via an alternate network in the source node by a bit pattern known to the access node **[as disclosed in abstract, figure 2, column 4, lines 6-34, lines 45-65, based on the traffic type bit patterns received and QoS threshold signal received, the particular secondary network is chosen for routing the data (the voice, data and video are classified according to the adaptation layer type), the traffic is directed to a secondary network, which is capable of handling the traffic of the corresponding traffic type in the bit pattern];**

recognizing the known bit pattern **[traffic type-voice, video or data, see col. 4, lines 45-65]** upon the arrival of such data packets in the access node **[node 300a, see fig. 2 and 3; a plurality of user data streams are received into node 300a, the user data is classified based on the traffic type (bit pattern) as data, voice or video];**

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re-routing the data packets identified with the know bit pattern onto an alternate network [see, col. 4, lines 45-67 upon the access node 300a receiving the traffic type (bit pattern) from source node and threshold indication from the NMS, the traffic types (voice, video and data) are classified and are rerouted to the appropriate secondary network, which is capable of handling traffic of the corresponding type];

Riggan disclose of using each recognized bit pattern [traffic type-voice, video or data, see col. 4, lines 45-65] of a data packet to produce a re-routing thereof onto at least one alternate network [secondary network, see figs. 2 and 3]. *Riggan fails to explicitly disclose using in at least one source node, bit patterns corresponding to the respectively request quality and preventing the re-routing of the data packet onto at least one alternate network, if after recognition of the bit pattern of a data packet to be routed via the at least one alternate network in the access node, the at least one alternate network cannot offer the quality corresponding to the bit pattern.*

Farris further discloses in the abstract, figure 3 and respective portions of the specification of a source device 90 connected to SSP13 functioning as an access node capable of setting up a connection both to the packet switching network 50 and to one of the at least alternative network 10. Farris discloses in col. 4, lines 14-20 and 50-56 that the source calling node may predefine an acceptable level of service (quality) including the threshold quality level for specific traffic type. Farris further discloses in col. 4, lines 45-63 and fig. 3 that the if the measured quality of service on the data network is not satisfactory than the call is routed to the alternate, voice telephone network connection thus suggesting that the network prevents the re-routing of a data packet to the data network (Internet) until the data network (Internet) can

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satisfactorily support the necessary predefined quality threshold. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to modify the teachings of Riggan to include the features of preventing switching to alternate network based on unsatisfactory quality threshold level as taught by Farris. One is motivated as such in order to obtain the predefined voice grade quality which maintaining the call.

Referring to claim 14, Riggan discloses of further comprising the step of using a filter in the access node to check data packets arriving form a source node for the known bit pattern; and initiating the re-routing of the data packets identified with this bit pattern onto an alternate network when a known bit pattern is recognized [see figure 2, 3a,3b and in column 4, lines 6 to column 5, lines 24, incoming traffic, voice, video and data is classified (classification inherently uses filter) as AAL Type 1, 2,3 / 4 , 5 traffic and the secondary network is chosen by the access node 300a based upon the traffic type of data which is to be transmitted] as claim.

Referring to claim 17, Riggan discloses of comprising the step of using the same bit pattern in at least one source node regardless of the respectively request quality [see column 5, lines 1-42, regardless of the request quality, each AAL Traffic Type is routed back through the ATM network, once the bandwidth utilization of the ATM network falls below the predetermined threshold] as claim.

Referring to claim 19, Riggan discloses of further comprising the step of using bit pattern of a data packet to produce a re-routing thereof onto at least one alternate network corresponding

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to the bit pattern with a specific quality [see column 5, lines 1-42, each specific AAL Traffic Type is routed to a corresponding respective alternate network as long as the quality condition is met] as claim.

Regarding claim 25, Farris discloses in fig 3 further comprising the steps of having the at least one source node [PC 90, fig. 3] send the data packets to communicate a message [packet] via the packet-switching network to at least one destination node [15, see fig. 3] with respect to the data packets to be routed via the at least one alternate network [PSTN network], and waiting for an acknowledgment from the at least one destination node [two-way voice communication as in fig. 3 and claim 1 acknowledges that a communication between the end-users is successful].

#### *Allowable Subject Matter*

6. Claims 21-24 and 26-27 allowed upon correcting the minor grammatical informality in claim 21.

7. Claim 15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Response to Arguments*

8. Applicant's arguments with respect to claims 13-15, 17, 19 and 25 have been considered but are moot in view of the new ground(s) of rejection.

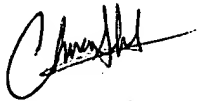
*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G. Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7682. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs  
March 10, 2006



Chirag Shah  
Patent Examiner, Division 2616